

WRIT SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI ex rel.)	No. ED96570
DIANE THOMPSON, Relator,)	Circuit Court No. 2106FC-09256-01
)	Writ of Prohibition
v.)	Date: August 9, 2011
)	
HONORABLE JOSEPH S. DUEKER,)	
ASSOCIATE CIRCUIT JUDGE, ST. LOUIS)	
COUNTY, STATE OF MISSOURI, Respondent.)	

Respondent ordered the Schechter Law Firm, P.C., to withdraw from its representation of relator on a motion to modify a dissolution decree pursuant to Rule 4-1.9(a).

WRIT OF PROHIBITION MADE PERMANENT.

Writ Division Seven Holds:

1. Rule 4-1.9(a), which applies to conflicts of interest with former "clients" is inapplicable because husband never retained the Schechter Law Firm to represent him. Rather, husband was a "former prospective client" under Rule 4-1.18. Rule 4-1.18 has an additional requirement for disqualification, not found in Rule 4-1.9(a).
2. Under Rule 4-1.18, to disqualify a lawyer on the basis of a consultation with a former prospective client, the former prospective client must prove that the information received during the consultation would be "significantly harmful" if used in the new matter.
3. Proof that information is "significantly harmful" requires some disclosure of the nature and substance of the information.
4. In this case, husband did not seek disqualification under Rule 4-1.18 or offer the additional evidence required to support disqualification under Rule 4-1.18. Husband's motion was based solely on Rule 4-1.9. Because husband was a former prospective client under Rule 4-1.18 and not a former client under Rule 4-1.9, the trial court abused its discretion when it ordered the Schechter Law Firm to withdraw from representing wife on the motion to modify under the lesser burden set out in Rule 4-1.9.

Opinion by: Kathianne Knaup Crane, P.J.
Patricia L. Cohen, J. and George W. Draper III, J., concur.

Attorneys for Relator: Theodore S. Schechter and Kristen J. Dunnett

Attorneys for Respondent: Alan E. Freed and Susan E. Block

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.